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To Examiner J. Kang

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From Mitchell W. Shapiro Phone no. 703-610-8652

Date May 21, 2004 Time

File no. Our Ref: A-9001D Pages including cover 3

Re: Appln. No.: 10/082,290; GAU: 2874

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MAY 21 2004

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PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of:

David W. GERDT et al.

Appln. No.: 10/082,290

Group Art Unit: 2874

Filed: February 26, 2002

Examiner: J. Kang

For: SENSING APPARATUS EMPLOYING VARIABLE COUPLER
FIBEROPTIC SENSOR

* * *

RESPONSE

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This is in response to the Office Action mailed on May 10, 2004. In that Action, the Office asserted that the amendment to the claims filed on February 23, 2004 (presumably referring to Applicants' facsimile submission dated February 19, 2004) fails to comply with 37 C.F.R. § 1.121(c) as effective from July 30, 2003.

Applicants would respectfully note that the Preliminary Amendment included with their February 19, 2004 submission was merely a replacement copy of the Preliminary Amendment filed on June 6, 2003, the original having apparently been lost by the Office. The Preliminary Amendment fully complied with the rules in effect when it

was filed on June 6, 2003, and it was therefore entitled to entry at that time. The submission of a replacement copy, necessitated by the Office's loss of the original document, cannot invoke new rules that became effective after the original document was filed.

Accordingly, the Office's holding of non-compliance with 37 C.F.R. § 1.121(c) is unwarranted and should be withdrawn.

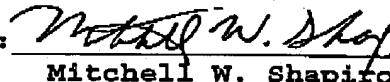
Applicants respectfully request that the Preliminary Amendment be promptly entered and returned to the Examiner for consideration on the merits.

The Commissioner is hereby authorized to charge to Deposit Account No. 50-1165 any fees under 37 C.F.R. §§1.16 and 1.17 which may be required by this paper, and to credit any overpayment to that Account. If any extension of time is required in connection with the filing of this paper and has not been requested separately, then such extension is hereby requested.

Respectfully submitted,

MWS:jab

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By: 
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CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office on May 21, 2004.


Mitchell W. Shapiro